S&H Form: (2/01)

Docket No.: 2454.1093

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Eduard ERHARDT

Serial No. 10/600,643   Group Art Unit: 2454

Confirmation No. 6122

Filed: June 23, 2003   Examiner: CHIRAG R. PATEL

For: COMPUTER SYSTEM CONNECTED TO A DATA COMMUNICATIONS NETWORK

PRE-APPEAL BRIEF CONFERENCE REQUEST

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attention: BOX AF

Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the following reasons:

I. THE CITED REFERENCES DO NOT DISCLOSE OR SUGGEST A COMPUTER-TO-NETWORK CONNECTION INDEPENDENT FROM THE COMPUTER-TO-COMPUTER CONNECTION

Claims 1-6 and 8-22 are rejected under 35 U.S.C.§103(a) as being obvious over U.S. Patent No. 6,549,921 to Ofek in view of U.S. Patent no. 6,480,962 to Touboul. Claims 23 and 24 are rejected under 35 U.S.C. §103(a) as being obvious over Ofek in view of Touboul and U.S. Patent No. 6,567,869 to Shirley.

Ofek discloses a method and apparatus for performing point-in-time backup operations in a computer system. The method and apparatus are described at column 4, lines 1-22 as follows:

> In accordance with one aspect of this invention it is possible to produce a point-in-time backup of data in a data processing system having a host computer and a first data storage facility that stores data at predetermined locations in data blocks, a second data storage facility and a data backup facility. During a normal operating mode the second data storage facility mirrors the first data storage facility in response to a copy program.

The copy program is disabled thereby <u>isolating the second data storage facility from the first data storage facility</u> while enabling the first data processing system to continue its operations with the first data storage facility. This allows the backup of the data in the data the second data storage facility onto the backup facility. While the backup is proceeding, <u>a recording takes place at the first data processing system to identify each data block in the first data storage facility that changes</u> as a result of the operation of the data processing system. Upon completion of the backup operation, the copy program is enabled to copy data blocks from the first data storage facility to the second data storage facility corresponding to the recorded identifications thereby reestablishing the second data storage facility as a mirror of the first data storage facility.

Independent claim 1 recites "a computer-to-computer connection between the first computer and the second computer." Independent claim 1 further recites "at least one computer-to-network connection to connect both the first and second computers to the data communications network independent from the computer-to-computer connection." Independent claim 6 recites forwarding data "from the first computer to a second computer via a computer-to-computer connection." Independent claim 6 further recites a "computer-to-network connection independent of the computer-to-computer connection." Independent claim 25 recites that "data received from the data communications network and data transmitted to the data communications network are limited without otherwise limiting forwarding of verified data in processable form and non-verified data in the non-processable form, from the first computer to the second computer." <u>The cited references do not disclose or suggest a computer-to-network connection independent from the computer-to-computer connection.</u>

Ofek shows in FIG. 1 a first computer 10, a second computer 11 and a computer-to-computer connection 30, 12, 33 between the first computer and the second computer. Ofek does not show a data communications network (or a computer-to-network connection) which is in addition to the computer-to-computer connection. Instead, Ofek refers to a data processing network being comprised of the first and second computers in the computer-to-computer connection. See column 5, lines 44-51. Thus, the data processing network of Ofek is by definition different from our data communications network.

Ofek further discloses per column 12, lines 38-40: "Other systems like the remote system 11 could connect to the local system 10 by separate remote link detectors and communications links," and per column 11, lines 45-55:

> As previously indicated it is possible to modify the network shown in FIG. 1 by adding a third and even a fourth system interconnected through corresponding communications links. The interconnection of three systems could then provide a first system like the local system 10 dedicated to process OLTP or other priority applications, a second remote system like the remote system 11 operating as a mirror and as a mechanism for, performing point-in-time backups, and a third system that always operates to provide a

second mirror of the data in the first system. Alternatively, the third system could also be adapted for running other applications.

This clearly shows that any additional computer that is connected to the network is connected by a computer-to-computer connection. This computer-to-computer connection would extend from the additional computer to one of the computers of the existing network. For example, a third computer could be connected to the first computer 10 by a computer-to-computer connection.

However, this also shows that the additional computer-to-computer connection (between the first and third computers) is different from the data communications network (and a computer-to-network connection) of the present application. This is because the claims require for the first computer and the second computer to be connected to the data communications network. Thus, Ofek does not disclose or suggest two computers connected to a data communications network by a computer-to-network connection, with the same computers being also interconnected by a computer-to-computer connection.

Column 4, lines 8-11 describe that when the copy program is disabled, the second data storage facility is isolated from the first data storage facility. This shows that in Ofek, when the connection between the first computer 10 and the second computer 11 is interrupted, so is any computer-to-network connection. Independent connections do not exist in Ofek.

Touboul is only cited for converting non-verified or non-verifiable data into a non-processable form. Neither Touboul nor Shirley compensate for the deficiency in Ofek.

II. THE CITED REFERENCES DO NOT DISCLOSE OR SUGGEST LIMITING RECEIPT OF DATA FROM THE DATA COMMUNICATIONS NETWORK TO THE FIRST COMPUTER AND LIMITING TRANSMISSION OF DATA TO THE COMMUNICATIONS NETWORK TO THE SECOND COMPUTER.

In the present application, at least one computer-to-network connection connects the first and second computers to the data communications network independent from the computer-to-computer connection. In this manner, it is possible to limit receipt of any data from the data communications network to the first computer and limit transmission of any data to the data communications network to the second computer.

As stated above, Ofek does not disclose a data communications network to which two computers are connected by a computer-to-network connection, the same computers being also interconnected by a computer-to-computer connection. Ofek shows only a computer-to-computer connection between the first computer and the second computer. Thus, it is not

possible in the Ofek system to limit receipt of data from the data communications network (which is different from the computer-to-computer connection) to the first computer, and to limit transmission of data to the data communications network (which is different from the computer-to-computer connection) to the second computer.

At column 3, lines 65-67, Ofek mentions "a method and apparatus for backing up data in a remote data facility that is fully transparent to operations at a local site." At column 4, lines 26-29, Ofek describes a "second data storage facility for operating normally as a mirror for the first data storage facility." It should be clear that the remote data facility and first and second data storage facilities do not and cannot anticipate the claimed features according to which receipt of any data from the data communications network is limited to the first computer and transmission of any data to the data communications network is limited to the second computer.

III. THE CITED REFERENCES DO NOT DISCLOSE OR SUGGEST COMPARING A FIRST WORK RESULT OF A FIRST COMPUTER WITH A SECOND WORK COMPUTER OF A SECOND COMPUTER TO ENABLE THE FIRST AND SECOND COMPUTERS TO MATCH.

Independent claim 1 recites that the computer-to-computer connection between the first and second computers enables "the first computer to match with the second computer by comparing a first work result of the first computer with a second work result of the second computer." Independent claims 6 and 25 contain different, but somewhat similar language.

In the present application, the data communications network and the at least one computer-to-network connection are different from the computer-to-computer connection, which enables the first and second computers to match by comparing work results.

In the Office Action, the Examiner cites steps 101, 102, 106 and 111 shown in FIG. 6 and described in column 11 of Ofek. These steps relate to re-establishing the second data storage facility as a mirror of the first data storage facility after backup. However, column 4, lines 14-18 of Ofek clearly describe "a recording takes place <u>at the first data storage processing system</u> to identify each data block in the first data storage facility that changes as a result of the operation of the data processing system." Further, column 10, lines 45-49 describe

> Generally, the control 31 retrieves the TRACK STATUS block 26 and identifies all the tracks in the storage device sets 42 and 43 that have invalid tracks because the host system 13 altered tracks in the data storage sets 15 and 16.

As should be apparent from the above, it is the local system 10 that monitors any changes that occur during backup (while the first and second computers are isolated). There is no comparing of work results, as the claims require. Touboul and Shirley are similarly deficient.
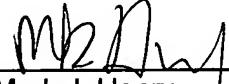
IV. SUMMARY

For all of the above reasons, applicant submits that the rejections should be withdrawn. Further, applicant respectfully request that the Office issue a finding that the application is allowed on the existing claims and that prosecution remains closed.

Respectfully submitted,

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